

## Introduced by Senator Battin

February 24, 2006

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An act to amend Section 3030 of the Family Code, relating to child custody and visitation.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1820, as introduced, Battin. Custody and visitation: sex offenders.

Existing law prohibits a court from granting custody of, or unsupervised visitation with, a child to a registered sex offender if the victim was a minor, unless the court finds that there is no significant risk to the child and states its reasons in writing or on the record.

This bill would make technical changes to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 3030 of the Family Code is amended to  
2     read:  
3     3030. (a) (1) No person shall be granted physical or legal  
4     custody of, or unsupervised visitation with, a child if the person  
5     is required to be registered as a sex offender ~~under~~ pursuant to  
6     Section 290 of the Penal Code ~~where if~~ the victim was a minor,  
7     or if the person has been convicted under Section 273a, 273d, or  
8     647.6 of the Penal Code, unless the court finds that there is no  
9     significant risk to the child and states its reasons in writing or on  
10    the record.  
11    (2) No person shall be granted physical or legal custody of, or  
12    unsupervised visitation with, a child if anyone residing in the

1 person's household is required, as a result of a felony conviction  
2 in which the victim was a minor, to register as a sex offender  
3 under Section 290 of the Penal Code, unless the court finds there  
4 is no significant risk to the child and states its reasons in writing  
5 or on the record.

6 (3) The fact that a child is permitted unsupervised contact with  
7 a person who is required, as a result of a felony conviction in  
8 which the victim was a minor, to be registered as a sex offender  
9 under Section 290 of the Penal Code, shall be prima facie  
10 evidence that the child is at significant risk. When making a  
11 determination regarding significant risk to the child, the prima  
12 facie evidence shall constitute a presumption affecting the burden  
13 of producing evidence. However, this presumption shall not  
14 apply if there are factors mitigating against its application,  
15 including whether the party seeking custody or visitation is also  
16 required, as the result of a felony conviction in which the victim  
17 was a minor, to register as a sex offender under Section 290 of  
18 the Penal Code.

19 (b) No person shall be granted custody of, or visitation with, a  
20 child if the person has been convicted under Section 261 of the  
21 Penal Code and the child was conceived as a result of that  
22 violation.

23 (c) No person shall be granted custody of, or unsupervised  
24 visitation with, a child if the person has been convicted of murder  
25 in the first degree, as defined in Section 189 of the Penal Code,  
26 and the victim of the murder was the other parent of the child  
27 who is the subject of the order, unless the court finds that there is  
28 no risk to the child's health, safety, and welfare, and states the  
29 reasons for its finding in writing or on the record. In making its  
30 finding, the court may consider, among other things, the  
31 following:

32 (1) The wishes of the child, if the child is of sufficient age and  
33 capacity to reason so as to form an intelligent preference.

34 (2) Credible evidence that the convicted parent was a victim of  
35 abuse, as defined in Section 6203, committed by the deceased  
36 parent. That evidence may include, but is not limited to, written  
37 reports by law enforcement agencies, child protective services or  
38 other social welfare agencies, courts, medical facilities, or other  
39 public agencies or private nonprofit organizations providing  
40 services to victims of domestic abuse.

1 (3) Testimony of an expert witness, qualified under Section  
2 1107 of the Evidence Code, that the convicted parent experiences  
3 intimate partner battering.

4 Unless and until a custody or visitation order is issued pursuant  
5 to this subdivision, no person shall permit or cause the child to  
6 visit or remain in the custody of the convicted parent without the  
7 consent of the child's custodian or legal guardian.

8 (d) The court may order child support that is to be paid by a  
9 person subject to subdivision (a), (b), or (c) to be paid through  
10 the local child support agency, as authorized by Section 4573 of  
11 the Family Code and Division 17 (commencing with Section  
12 17000) of this code.

13 (e) The court shall not disclose, or cause to be disclosed, the  
14 custodial parent's place of residence, place of employment, or the  
15 child's school, unless the court finds that the disclosure would be  
16 in the best interest of the child.